

Maine Revised Statutes
Title 38: WATERS AND NAVIGATION
Chapter 17: MAINE REFUSE DISPOSAL DISTRICT ENABLING ACT

§1726-A. AGREEMENT TO PROVIDE LIMITED SERVICES

1. Provision of limited waste disposal services. If for any reason the board of directors of a district organized under this chapter has not declared a disposal system operational for the disposal of all solid waste generated by the residential and commercial activities within the member municipalities, the district may contract with all or any of the member municipalities of the district, and any member municipality may contract with the district to provide a system for the disposal of any portion or type of residential, commercial or industrial waste generated within a member municipality on such terms and conditions as the district and the member municipality may agree. Notwithstanding any law, charter or ordinance provisions to the contrary, the powers to contract with a refuse disposal district conferred upon a municipality pursuant to this section may be exercised by the municipal officers as defined in Title 30-A, section 2001, including the assessors of a plantation, only when authorized, in the case of a municipality with a city or town council, by action of the council or, in the case of a municipality without such a council, by action of the town meeting. This subsection applies and the action of the city council, town council or town meeting is effective whether it was taken before or after the effective date of this subsection.

[1989, c. 861, (NEW) .]

2. Powers. Except as provided in this section, all of the provisions of this chapter apply to a district providing limited waste disposal services pursuant to this section, including, but not limited to, the authority to issue bonds and notes in accordance with subchapter IV. The provisions of this section apply to all refuse disposal districts organized under this chapter, including refuse disposal districts organized prior to the effective date of this section.

[1989, c. 861, (NEW) .]

3. Collection sites or systems. Each member municipality that enters into a contract with a district pursuant to this section is responsible for providing a collection site or system for the portion or type of solid waste generated within that member municipality and, subject to the contract with the district, for the transportation of that solid waste to a waste facility designated by the district, together with all incidental costs. The member municipality may contract with the district to provide collection and transportation services.

[1989, c. 861, (NEW) .]

4. Municipal assessments. A district that proposes to provide limited waste disposal services may submit to the legal voters of the district a question with regard to granting the district assessment powers in substantially the form provided under section 1755. Authorized assessments must be shared by the member municipalities of the district under the same formula as guarantees are shared pursuant to section 1754.

A. When the question is submitted prior to the issuance of any indebtedness by the district, the directors may decide that approval of such an assessment article by the voters of a municipality is a condition of each municipality's continuance as a member of the district, in which case the ballots must include a statement that municipalities that fail to vote in favor of the proposed assessment article are no longer members of the district if the board determines that it is feasible or practical to constitute a district as a geographic unit made up of the municipalities voting in favor of the proposed assessment article. The ballots must also state the method to be used to allocate assessments among the member municipalities if the article is approved. The ballot may not contain a specific fractional share of the assessment to be

borne by each member municipality. The votes must be counted in each municipality and the affirmative vote of a simple majority of votes cast in each municipality is required to grant the district assessment powers over all of the municipalities in the district. When 3 or more municipalities are involved in the voting and at least 2 have voted to approve the assessment article submitted to them, rejection of the proposed assessment article by one or more municipalities does not defeat the assessment power with respect to the municipalities voting in favor of it if the board determines that it is feasible or practical to constitute a district made up of the municipalities voting in favor of the article as a geographic unit. In that event, the board, immediately after making its findings, shall issue an amended certificate of organization in the name of the district for a district composed only of the municipalities voting in favor of the assessment article. Upon the issuance of a certificate the municipalities not approving the assessment article are no longer members of the district. The original of the amended certificate must be delivered to the directors of the district and a copy of the certificate attested by the commissioner must be filed and recorded in the office of the Secretary of State. The issuance of the certificate by the board is conclusive evidence of the lawful reorganization of the district. If the board determines that it is not feasible or practical to constitute the district as a geographic unit composed of the municipalities voting affirmatively on the article, the district continues to exist with no assessment power and the municipalities that did not approve the assessment article remain members of the district. [2011, c. 655, Pt. GG, §25 (AMD); 2011, c. 655, Pt. GG, §70 (AFF).]

B. When the question is submitted after the issuance of any indebtedness by the district, the provisions of section 1755, subsection 2 apply. [1989, c. 861, (NEW).]

[2011, c. 655, Pt. GG, §25 (AMD); 2011, c. 655, Pt. GG, §70 (AFF) .]

5. Guaranteed bonds. If the district has been authorized to issue guaranteed notes and bonds pursuant to section 1754, a contract between the district and a member municipality pursuant to this section may authorize the district to issue notes and bonds that are guaranteed pro rata by that member municipality. If the district established the share of liability of each member municipality for guaranteed notes and bonds using the valuation method set forth in section 1754, subsection 4, paragraph A, the pro rata share of liability of each member municipality authorizing the district to issue guaranteed notes and bonds must be established in accordance with a fraction, the numerator of which is the most recent state valuation of all property of the member municipality authorizing the district to issue the guaranteed notes and bonds and the denominator of which is the most recent state valuation of all property located within all the member municipalities authorizing the district to issue the guaranteed notes and bonds. If the district established the share of liability of each member municipality for guaranteed notes and bonds using the per capita method set forth in section 1754, subsection 4, paragraph B, the pro rata share of liability of each member municipality authorizing the district to issue guaranteed notes and bonds must be established in accordance with a fraction, the numerator of which is the most recent census of all residents of the member municipality authorizing the district to issue the guaranteed notes and bonds and the denominator of which is the most recent census of all residents of all the member municipalities authorizing the district to issue the guaranteed notes and bonds. A member municipality's fractional share of liability for guaranteed notes and bonds authorized pursuant to these contracts may be different from that member municipality's fractional share of liability for guaranteed notes and bonds calculated pursuant to section 1754. The guarantee provisions of this section apply to districts providing limited waste disposal services under this section that have authority to issue bonds and notes guaranteed by member municipalities. A member municipality may not be required to guarantee any portion of the indebtedness issued by a district providing limited waste disposal services under this section unless the municipality has entered into a contract providing for such a guarantee pursuant to this section.

[1993, c. 11, §3 (AMD) .]

6. General municipal powers. In addition to the powers granted to municipalities under this chapter, the provisions of section 1304-B apply to the member municipalities of a district providing limited waste disposal services pursuant to this section and nothing contained in this section limits the powers of a municipality under section 1304-B.

[1989, c. 861, (NEW) .]

7. Relationship to other laws. The obligation of a municipality to pay any fees, assessments, contract costs or expenses, guaranteed amounts or any other payments in accordance with any agreement or contract entered into pursuant to this section does not constitute a debt or indebtedness of the municipality within the meaning of any statutory, charter, ordinance or other provision limiting the incurrence or the amount of municipal indebtedness. The authorization or incurrence of the obligation or any municipal action to raise funds to meet the obligation does not require or is not subject to any voter referendum or approval under any statutory, charter, ordinance or other provision. No contract entered into in accordance with this section may be deemed to be a contract in restraint of trade or otherwise unlawful under Title 10, chapter 201.

[1989, c. 861, (NEW) .]

SECTION HISTORY

1989, c. 861, (NEW). 1993, c. 11, §§2,3 (AMD). 1995, c. 656, §A32 (AMD). 2011, c. 655, Pt. GG, §25 (AMD). 2011, c. 655, Pt. GG, §70 (AFF).

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